UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

COMMSCOPE TECHNOLOGIES LLC	)	
	)	
Plaintiff,	)	No. ____________
	)	
v.	)	**Jury Trial Demanded**
	)	
COMMUNICATION COMPONENTS ANTENNA INC.	)	
	)	
Defendant.	)	

COMPLAINT FOR DECLARATORY JUDGMENT OF NON-INFRINGEMENT

Plaintiff CommScope Technologies LLC ("CommScope") brings this action against Defendant Communication Components Antenna Inc. ("CCAI") and alleges as follows:

Nature of the Case

1. CommScope seeks a declaratory judgment that the CommScope has not infringed any claims of United States Patent No. 8,311,582. This patent ("patent-in-suit" or "the '582 patent") relates to antenna systems for cellular wireless networks. CCAI has filed patent infringement suits in India based on the Indian counterpart of the '582 patent against CommScope's antenna products, antenna products that CommScope also sells in the United States. Further, CCAI has threatened legal action in the United States against CommScope based on the '582 patent. These unjustified allegations and the litigation brought by CCAI against CommScope have placed a cloud over CommScope's products, which discourages customers from purchasing CommScope antennas. Therefore,

CommScope requests that this Court resolve this dispute between the parties by declaring that CommScope has not infringed the '582 patent.

Parties

2. CommScope, formerly known as Andrew LLC, is a Delaware company, headquartered in Hickory, North Carolina with a regional place of business in this district in Richardson, Texas. CommScope, together with its affiliated companies, is a global supplier of telecommunications equipment for both wired and wireless networks. CommScope designs and manufactures a broad range of products which transport the broadband data that is the foundation of the digital economy. CommScope's innovative products are used to build network infrastructures, and include, for example, base station antennas commonly used on cell towers to enable wireless communications with mobile communication devices such as cell phones. CommScope holds over 9,800 patents. The CommScope global network of affiliated companies employs over 20,000 people worldwide and includes product design facilities in the United States, India, Australia, and China.

3. Defendant CCAI is a private company incorporated under the laws of Canada with, upon information and belief, its principal place of business at 11 Hines Road, Ottawa, Ontario Canada-K2K2K1. Defendant CCAI is listed as the owner of U.S. Patent No. 8,311,582 according to the United States Patent Office Assignment Database.

Jurisdiction and Venue

4. This action arises under the Patent Act, 35 U.S.C. § 271 *et seq*. and the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1338, 28 U.S.C. §§ 2201, 2202, and 35 U.S.C. §§ 271, *et seq*.

6. Venue is proper under 28 U.S.C. § 139l and 1400.

7. This Court has specific personal jurisdiction over CCAI based on contacts with this forum.

8. Alternatively, this Court has personal jurisdiction under Federal Rule of Civil Procedure 4(k)(2).

9. In November of 2016, CCAI issued a press release via its website and available in Texas about the '582 patent. The press release is attached as Exhibit A. The press release accused CommScope of patent infringement and threated enforcement action.

10. The effects of CCAI's accusation of infringement and threat of enforcement are felt in Texas, and upon information and belief, CCAI intended the effects to be felt in Texas.

11. Upon information and belief, if CCAI is not subject to specific personal jurisdiction in Texas, CCAI is not subject to jurisdiction in any state's courts of general jurisdiction. CCAI is a foreign entity, and to CommScope's knowledge, not registered to do business in any state in the United States.

12. CCAI's contacts with the United States as a whole satisfy the applicable constitutional requirements, and exercising jurisdiction over CCAI is consistent with the United States Constitution and laws.

13. CCAI issued its press release threatening enforcement of the '582 patent in the United States, specifically, in New Jersey. CCAI's press release threatening

enforcement of the ‘582 patent specifically named CommScope, a United States company. Further CCAI’s press release threatening enforcement of the ‘582 patent was published on a website directed at the United States.

14. Upon information and belief, officers and directors of CCAI reside in the United States and perform at least some of their corporate responsibilities in the United States, including transacted business in the United States involving the ‘582 patent. For example, Dennis Nathan, who is a director and co-owner of CCAI and upon information and belief the president of CCAI, resides in New Jersey and executed the assignment of the ’582 patent to CCAI in New Jersey. For another example, Allen Cohen, who is also a director and co-owner of CCAI and upon information and belief the vice president of CCAI, resides in New Jersey.

15. Upon information and belief, CCAI has engaged in a course of conduct in the United States to encourage customers not to purchase CommScope’s antenna products by suggesting to customers in the United States that these products would infringe CCAI’s ‘582 patent. Upon information and belief, during discussions and interactions with cellular operators in the United States, at least the President of CCAI has suggested CCAI’s products are patented in the United States and CommScope’s competing products should be disregarded because they would infringe CCAI’s patent. For example, the President of CCAI submitted the following testimony in the India litigation referenced below:

> The most important reason for this trend is that the North American market (*where the Plaintiff also holds patent protection over the subject matter of the Impugned Patent*), is an uncompetitive/unchallenged market for the Plaintiff, i.e., Defendant No.1’s Bi-Sector Array Antennas are widely disregarded by cellular operators because they are aware of the Plaintiff’s

> patents. For this reason, (a) the Plaintiff's patented Bi-Sector Array Antenna is the primary option for cellular operators in the North American market, and (b) the Plaintiff is able to price its patented Bi-Sector Array Antenna with more freedom in the North American market, while maintaining consumer interest in its product. I state that my knowledge of the North American market is derived from my personal discussions and interactions with cellular operators in North America, and the market response that the Plaintiff gets for its patented Bi-Sector Array Antennas from cellular operators in North America in the ordinary course of business.

16. Likewise, upon information and belief, CCAI caused the '582 patent to be advertised in the United States in an effort to deter competitors, including CommScope, from introducing competing products. For example, CCI antenna product literature in the United States touts the "'Asymmetrical Beam for Spectrum Efficiency' patent." *See* Exs. B-C. For reference, the title of the '582 patent is "Asymmetrical beams for spectrum efficiency." CCI antenna product literature also asserts its antenna configuration is "unique." *See* Ex. C. CCAI's press release discussed above also advertises that CCI antennas using the '582 patent purportedly represent the "de-facto standard."

17. In addition, CCAI has engaged in a scheme involving sending correspondence into the United States, including to CommScope in North Carolina, that relates to its threats of enforcement of the '582 patent. Specifically, upon information and belief, in order to avoid business discussions with CommScope about the '582 patent and its foreign counterparts, CCAI sent misleading royalty payments to CommScope in North Carolina, inaccurately representing that sales of an unlicensed entity, having the same owners as CCAI, were covered by a license held by CCAI to certain CommScope patents. In the royalty reports sent by CCAI to North Carolina, CCAI concealed the true relationship between CCAI and the unlicensed entity. Upon information and belief, CCAI participated

in this scheme at least in part to avoid entering negotiations with CommScope in which CCAI's enforcement actions against CommScope and the '582 patent were sure to be raised.

18. As another example of CCAI sending related correspondences to CommScope in the United States, counsel for CCAI has sent by email to CommScope's legal counsel located in the United States legal papers for the Indian litigation discussed below involving the Indian counterpart patent to the '582 patent.

19. CCAI develops antenna products, including products advertised as "implement[ing]" the purported invention in the '582 patent, that are offered for sale and sold throughout the United States, including in Illinois, California, Kentucky, Washington, and upon information and belief, Texas.

20. CCAI has participated in a legal proceeding in the United States against CommScope involving the '582 patent. For example, CCAI opposed CommScope's request that the Patent Office review the validity of the '582 patent.

21. CCAI has hired agents in the United States to maintain and defend the '582 patent. For example, CCAI hired counsel from New York to oppose CommScope's request for inter partes review and to pay maintenance fees for the '582 patent.

Factual Background

A. The Technology of the '582 Patent

22. United States Patent No. 8,311,582 relates to antennas used in mobile communications networks. More specifically, the technology of the '582 patent addresses

a method and antenna system for increasing the capacity of a base station for sectorized cellular communications.

23. Mobile communication networks are also known as cellular communications networks because the radio towers, and the associated antennas, are ideally positioned in regular, often hexagonal, geographical regions called cells. Base station antennas are designed to provide radio signal coverage to users located in a cell. As mobile users are added to cellular networks, system capacity problems have been encountered, and service providers have attempted to find ways of enhancing the coverage and the capacity of their cellular networks.

24. One well-known method to increase cell capacity involves replacing an omni-directional antenna, traditionally placed at the center of a cell, with a number of directional antennas, that divide the original cell into multiple sectors. Each sector can be treated as a distinct cell, thereby increasing system capacity. Today, three-sector cell sites are the most common, i.e. the cell includes three directional antennas that divide the cell into three sectors.

25. In the alleged invention of the ‘582 patent, an existing sector antenna is substituted with a new antenna, which has substantially the same coverage area as the cell sector being replaced, but is divided into a plurality of asymmetrical beams or sub-sectors. Figure 3 of the ‘582 patent is described as showing a pair of asymmetrical sub-sector beams overlaying a conventional three sector beam pattern.

26. The ‘582 patent states (incorrectly) that “heretofore, antenna beam patterns have consistently been symmetrical.” The ’582 patent emphasizes that the asymmetrical

shape of its sub-sector beam patterns reduces the undesireable overlap between adjacent pairs of sub-sector beams. The ‘582 patent states, “introduction of asymmetrical beams allows close approximation of the coverage area of the conventional sector antenna being replaced, with small side lobes and minimal overlap.”

B. CCAI’s Enforcement Actions Against CommScope

27. In January 2014, CCAI filed a suit in India against a subsidiary of CommScope in the High Court of Delhi at New Delhi alleging that CommScope’s twin beam antennas including for example CommScope’s antenna model number HBXX-3817TB-VTM infringes Indian Patent No. 240893. A copy of the “Amended Plaint” for this matter is attached as Exhibit D.

28. Indian Patent No. 240893 is the Indian counterpart patent to the ‘582 patent. The India patent and the ‘582 patent claim priority to the same patent application, have identical specifications, and two nearly identical independent claims (1 and 13) except that corresponding claims of the Indian patent (1 and 10) do not include the “wherein” clause in the independent claims of the ‘582 patent.

29. In December of 2016, CCAI filed another action in India against CommScope and its affiliates asserting that additional CommScope antennas including, for example, antenna model numbers HBXX-3817TB1-VTM and HBXX-3817TB1-A2M infringe Indian Patent No. 240893. A copy of the “Plaint” for this matter is attached as Exhibit E.

30. In this “Plaint,” CCAI asserted it has “Worldwide protection for the invention covered by Indian Patent No. 240893” and specifically mentioned the ‘582

patent. CCAI alleged that the ‘582 patent overlaps with the Indian Patent No. 240893: “A patent has also been granted for the invention disclosed in Indian Patent No.240893 in the United States of America under U.S. Patent No. 8,311,582.”

31. In the Indian litigations, CommScope has denied that it has infringed the asserted Indian patent and also contends that the Indian patent is invalid. A final decision has not been reached in the Indian litigations.

32. CommScope offers for sale and sells in the United States the same antennas that are accused of infringing the Indian counterpart patent in the India litigation, including, for example, antenna product numbers HBXX-3817TB1-VTM and HBXX-3817TB1-A2M.

D. CCAI’s Threats of Infringement Actions Against CommScope

33. On November 3, 2016, CCAI issued a press release touting the ‘582 patent and stating that “Commscope and other competitors” have “systematically disregarded and infringed on our antenna patents worldwide.” The press release went on to assert that “We…intend to vigorously enforce our patents worldwide.”

34. The very next month, CCAI filed additional infringement claims against CommScope in India accusing CommScope antennas of infringing the Indian counterpart of the ‘582 patent. These CommScope antennas that are accused of infringement in India are also offered for sale and sold in the United States.

35. Further, as set forth above in Paragraphs 15-16, upon information and belief, CCAI has engaged in a course of conduct in the United States to encourage customers not to purchase CommScope’s antenna products by suggesting to customers in the United

States that these products would infringe CCAI's '582 patent and by publicly claiming that CCAI's antennas implementing the '582 patent are the "de-facto" standard.

COUNT I
DECLARATORY JUDGMENT OF NON-INFRINGEMENT

36. CommScope incorporates the allegations set forth in Paragraphs above as if each were separately set forth herein.

37. CommScope has not infringed and does not infringe any valid and enforceable claim of the '582 patent directly or indirectly, either literally, or under the doctrine of equivalents.

38. As one example, CCAI alleged in the Indian litigation that by its actions relating to CommScope antennas with product numbers HBXX-3817TB1-VTM and HBXX-3817TB1-A2M, CommScope has infringed claim 1 of the Indian counterpart patent. The claims of the '582 patent include multiple limitations that do not read on CommScope's activities or antenna products. CommScope has not infringed claim 1 of the '582 patent for at least the reasons it has not infringed claim 1 of the Indian counterpart patent. Specifically, for example, and without limitation, CommScope's antennas are not configured such that "a total critical coverage area . . . is substantially equivalent to a critical coverage area of the replaced one or more associated sector antennae." On the contrary, for example, CommScope's publications instruct users to rotate its twin beam antennas away from an inherited panel azimuth angle so that the coverage area will be different than an original coverage area of any replaced sector antenna. Similarly to independent claim 1, the other two independent claims in the '582 patent (claims 13 and

20) likewise require "a total critical coverage area . . . is substantially equivalent to a critical coverage area of the replaced one or more associated sector antennae." CommScope likewise does not infringe these independent claims (and consequently any claims of the '582 patent).

39. There is an actual controversy, within the meaning of 28 U.S.C. § 2201 and § 2202, between CommScope and CCAI concerning non-infringement of the '582 patent.

40. CommScope is therefore entitled to a declaratory judgment that it has not infringed any valid and enforceable claim of the '582 patent, directly or indirectly, either literally or under the doctrine of equivalents.

Prayer for Relief

CommScope respectfully requests the following relief:

A. a judgment declaring that CommScope has not and does not infringe any valid and enforceable claim of U.S. Patent No. 8,311,582 directly or indirectly, either literally or under the doctrine of equivalents;

B. an injunction preventing CCAI from bringing any other lawsuit or proceeding that places at issue CommScope's right to make, use, import, offer for sale, or sell CommScope's twin beam antenna systems;

C. an injunction prohibiting CCAI from directly or indirectly alleging to any third party or to the public that CommScope infringes U.S. Patent No. 8,311,582;

D. a judgment and order requiring CCAI to pay all costs of this action, including all disbursements and attorney fees, if this case is found to be exceptional as provided by 35 U.S.C. §285; and

E. such other and further relief that this Court may deem just and equitable.

Demand for a Jury Trial

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, CommScope demands a trial by jury of all issues so triable.

Dated: May 11, 2017.

Respectfully submitted.

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